



Appeal Decisions

Site visit made on 20 October 2020

by Felicity Thompson BA(Hons) MCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 18 November 2020

Appeal A Ref: APP/Z5060/C/20/3248441

Land and premises at 12 Upney Lane, Barking IG11 9LW

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
- The appeal is made by Mr Alam against an enforcement notice issued by the Council of the London Borough of Barking and Dagenham.
- The enforcement notice was issued on 30 January 2020.
- The breach of planning control as alleged in the notice is without planning permission the unauthorised construction of a roof above the side extension.
- The requirements of the notice are:
 - Remove the unauthorised roof above the side extension.
 - Remove all consequent waste material from the premises.
- The period for compliance with the requirements is three months.
- The appeal is proceeding on the grounds set out in section 174(2) (a) and (g) of the Town and Country Planning Act 1990 as amended.

Appeal B Ref: APP/Z5060/W/20/3248619

12 Upney Lane, Barking IG11 9LW

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Mr Alam against the decision by the Council of the London Borough of Barking and Dagenham.
- The application Ref 19/01687/FUL, dated 30 October 2019, was refused by notice dated 15 January 2020.
- The development proposed is described as 'new small roof above side extension.'

Decisions

1. Appeal A is dismissed, and the enforcement notice is upheld. Planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended.
2. Appeal B is dismissed.

Procedural Matter

3. I noted that the plan numbers referred to in the Council's decision notice do not match those submitted with Appeal B and the Council were asked to comment on this. They confirmed that the plans submitted with the appeal are those which were considered by them and the plan numbers referred to in the decision notice were incomplete versions of the correct references.

Appeal A on ground (a) the deemed planning application and Appeal B

4. Ground (a) is that planning permission should be granted for the matters stated in the notice. Since the planning appeal is against refusal of planning permission for an alternative development, proposed to replace that subject of the enforcement notice and, as the considerations in Appeal B are the same as for Appeal A I have considered the appeals together.
5. The roof subject of Appeal A has been erected above a side extension for which the Council granted permission in July 2018, reference 18/00646/FUL and it is against this background that I have considered the appeals.

Main Issue

6. The main issue is the effect of the existing and proposed roof above the side extension on the character and appearance of the house and area generally.

Reasons

7. 12 Upney Lane is a semi-detached house located in a predominantly residential area, which except for a block of flats and terrace of houses on the opposite side of the road, is generally characterised by semi-detached houses arranged in discernible building lines. Whilst the houses feature various external finishes, the palette of materials is broadly consistent and there is a high level of uniformity in the design and overall appearance of the houses along the road which enhances the quality of the street scene.
8. Each pair of houses in the road are attached at ground floor level to the adjoining pair by single storey garages to their sides. However, at first floor level a gap is maintained which provides some visual relief.
9. The Council's SPD¹ advises that the space between a property and a neighbouring property should be considered and that an extension which results in the loss of a prominent gap between buildings will be considered unacceptable. It also advises that the roof of extensions should normally be of the same style as the roof of the original property including the pitch, eaves treatment and materials used.
10. The appeal property has already been extended from hip to gable such that the characteristic hipped roof form, seen in other properties locally, has been lost and the space between it and the neighbouring house has been eroded to some extent. Whilst I note the Council's concerns, when compared with the roof as approved, I find there would be no material harm as a result of the additional reduction in space in either case.
11. However, I share the Council's concerns in respect of both the as built and proposed roof forms. The as-built roof features a broadly square shaped upwards projection which bears no resemblance to the roof form of the existing house or those in the surrounding area. The flat roof box like structure, appears as an unusual and significantly discordant feature in the street scene.
12. In respect of Appeal B, whilst the proposed roof attempts to reflect a more typical roof design, as a result of its height and uncharacteristically steep profile, which similarly does not reflect roof forms seen locally, it would appear as a prominent and discordant addition. The effect of both developments is and

¹ Residential Extensions and Alterations Supplementary Planning Document Adopted February 2012

would be to diminish the character and appearance of the existing house with consequent harm to the character and appearance of the surrounding area.

13. The developments in both Appeal A and Appeal B are therefore contrary to Policies BP8 and BP11 of the Council's Borough Wide Development Policies². Together these seek development which provides attractive, high quality architecture and which has regard to the local character of the area. It is also contrary to the guidance in the SPD.
14. Given the harm that is, and would be, caused to the character and appearance of the area, the environmental objective of sustainable development would not be achieved. As such neither the existing nor proposed development can be considered sustainable development for which the National Planning Policy Framework presumes in favour.
15. I therefore conclude, having regard to all other matters raised, that the appeal on ground (a) fails and that planning permission will not be granted.

The appeal on ground (g)

16. The appeal on ground (g) is that the period for compliance with the notice falls short of what is reasonable. The appellant suggests that six months would be more appropriate to enable sufficient funds to be raised and for a contractor to be secured to undertake the works.
17. The purpose of the time period within an enforcement notice is to allow for the physical works associated with the notice to be removed. The appellant's submission largely relates to the time before the works can commence - when funds can be raised, and a contractor can be appointed.
18. Whilst the appellant's concerns are understandable, in the absence of substantive explanation, given the relatively straightforward nature of the construction, I consider the period of three months for the removal of the roof and resulting waste materials from the land, as specified in the notice, is proportionate to the breach of planning control that has occurred.
19. Accordingly, the appeal on ground (g) therefore fails.

Conclusion

20. For the reasons given above, I conclude that the appeals should not succeed. I shall uphold the enforcement notice and refuse to grant planning permission on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

Felicity Thompson

INSPECTOR

² Planning for the future of Barking and Dagenham Borough Wide Development Policies Development Plan Document Adopted March 2011